UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,709	02/03/2004	Jonathan P. Fournie	5150-83001	2284

7590 12/11/2007		EXAMINER
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ART UNIT	PAPER NUMBER
2174	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)
	10/770,709	FOURNIE, JONATHAN P.
	Examiner	Art Unit
	Steven P. Sax	2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 September 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-3,10 and 21-29</u> is/are rejected.

7)☒ Claim(s) <u>4-9, 11-20</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This application has been examined. The amendment filed 9/20/07 has been

entered.

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-3, 10, 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Xavier et al (2003/0079207) and Takagi et al (6493001).

4.   Regarding claim 1, Xavier et al show executing a scene graph including

executing a data flow diagram in response to input (Figure 7, para 50) wherein said

executing comprises: displaying a first plurality of nodes on a display, wherein each of

the plurality of nodes is executable to execute at least a portion of the scene graph

(Figures 1, 4, 5, para 24, 27, 57); connecting the first plurality of nodes to create the

data flow diagram, wherein the first plurality of nodes are connected to specify data flow

among the plurality of nodes (Figures 4-6, para 28, 37, 40); and executing the data flow

diagram, wherein said executing creates the scene graph (para 37, 40, 50) wherein the

scene graph specifies a plurality of objects and relationships between the objects, and wherein the scene graph is usable in rendering a graphical image of the plurality of objects (para 50, Figure 7). Xavier et al do not go into the details that the executing of the graphical program creates the scene graph per se, but do show efficiently accessing the program to render the scene graph. Furthermore, Takagi et al do show executing of the graphical program to create the scene graph, for efficiently accessing the program to render the scene graph (abstract, Figures 4, 9, 10, column 10 lines 20-50, column 11 lines 29-62, column 12 lines 1-25). It would have been obvious to a person with ordinary skill in the art to have this in Xavier et al, because it would allow efficient accessing of the program to render the scene graph.

5.   Regarding claim 2, note storing the scene graph in a memory medium after said executing (Xavier para 28, 37).

6.   Regarding claim 3, the scene graph specifies a three dimensional (3D) scene (Xavier Figure 7, para 62).

7.   Regarding claim 10, note receiving user input selecting a first plurality of nodes from a displayed second plurality of nodes (para 27, 27).

8.   Regarding claim 21, the data flow diagram comprises a graphical program (Xavier para 24, 29, 32).

9.   Regarding claim 22, the graphical program comprises a LabVIEW graphical

program (Xavier para 24).

10.   Regarding claim 23, the graphical program comprises a block diagram portion

and a graphical user interface portion (Xavier Figures 4, 5, 7 para 21, 28, inherent in

para 24).

11.   Regarding claim 24, during execution of the data flow diagram, the graphical user

interface is displayed on a display of a first computer system and the block diagram

executes on a second computer system (inherent in LabView para 24).

12.   Regarding claim 25, note the method for creating a data flow diagram which is

executable to create a scene graph (Xavier Figure 7, para 50), the method comprising

displaying a plurality of nodes on a display, wherein each of the plurality of nodes is

selectable for inclusion in a data flow diagram (Xavier Figures 1, 4, 5, para 24, 27, 57);

receiving first input selecting at least a subset of the plurality of nodes for inclusion in

the data flow diagram and receiving second input connecting the plurality of nodes to

create the data flow diagram, wherein the data flow diagram comprises the at least a

subset of the plurality of nodes (Xavier Figures 4-6, para 28, 37, 40), and wherein the at

least a subset of the plurality of nodes are executable to create at least a portion of a

scene graph (Xavier para 37, 40, 50); wherein the scene graph specifies a plurality of

objects and relationships between the objects, and wherein the scene graph is usable in rendering a graphical image of the plurality of objects (Xavier para 50, Figure 7).

13.   Regarding claim 26, note executing the data flow diagram to create the scene graph (Xavier para 37, 40, 50).

14.   Regarding claim 27, note storing the scene graph after said executing (Xavier para 28, 37).

15.   Claims 28-29 show the same features as claims 1, 25 respectively and are rejected for the same reasons.

16.   Claims 4-9 and 11-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.   These bring out the scene graph details and second plurality of node details, which combined with the other features are not set forth in the prior art of record.
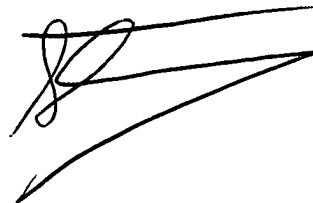
17.   Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.   But note that the 101 rejection has been removed in view of the amendment, and that this Action in non final.

18.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Steven P. Sax whose telephone number is (571) 272-

4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00

PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.